

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF EMPIRE STATE  
CARPENTERS ANNUITY,  
APPRENTICESHIP, LABOR-  
MANAGEMENT COOPERATION,  
PENSION AND WELFARE FUNDS,

**MEMORANDUM AND ORDER**  
13-CV-05558 (FB) (CLP)

Plaintiffs,

-against-

TRI-STATE ACOUSTICS  
CORPORATION,

Defendant.  
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*Appearances:*

*For the Plaintiff:*

CHARLES R. VIRGINIA, ESQ.  
RICHARD B. EPSTEIN, ESQ.  
ELINA TURETSKAYA, ESQ.  
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**BLOCK, Senior District Judge:**

On July 1, 2014, Magistrate Judge Pollak issued a Report and Recommendation (“R&R”) recommending that default judgment be entered against the defendant in the amount of \$58,832.22, consisting of \$38,286.10 in unpaid contributions, \$10,340.40 in interest, \$7,657.22 in liquidated damages, \$2,148.50 in fees and \$400.00 in costs. R&R at 22. The R&R directed plaintiffs to serve defendant with a copy of the R&R and provided that failure to object within fourteen days of receipt would preclude appellate

review. *See id.* Defendant was served a copy of the R&R by mail on July 1, 2014. To date, no objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure to timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. However, the interest calculation must be updated to account for the passage of time since the R&R was issued. From the date of the R&R, to the date of this Order, the total amount of interest accrued is \$962.14. Accordingly, the Court adopts the R&R without *de novo* review, and directs the Clerk to enter judgment in the total amount of \$59,794.36.

**SO ORDERED.**

/S/ Frederic Block  
FREDERIC BLOCK  
Senior United States District Judge

Brooklyn, New York  
September 12, 2014